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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

06/16/2009

MCDERMOTT, WILL. & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

BUL HANH THI MINH

ART UNIT

PAPER NUMBER

2192

DATE MAILED: 06/16/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,055	12/04/2003	Kei Yoneda	56937-100	4830

TITLE OF INVENTION: SOFTWARE PROCESSING METHOD AND SOFTWARE PROCESSING SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/16/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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P.O. Box 1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 06/16/2009

MCDERMOTT, WILL. & EMERY
 600 13th Street, N.W.
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Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/16/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
BUI, HANH THI MINH	2192	717-158000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB-122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB-47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1081 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1081 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/727,055

Applicant(s)

YONEDA ET AL.

Examiner

HANH T. BUI

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 26 January 2009.
2. ☒ The allowed claim(s) is/are 1,3,5,7,9,11,13,15,,16,18,19-27,32-35 (renumbered 1-23).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Hanh T Bui/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192

DETAIL ACTION

1. The reply filed on January 26th, 2009 has been received and entered.

Response to Arguments

2. Applicant's arguments (See pp. 13-14) filed on January 26th, 2009, with respect to claims 1, 16, 18, and 35 have been fully considered and are persuasive. The rejections of claims 1, 3, 5, 7, 9, 11, 13, 15, 16, 18-27 and 32-36 have been withdrawn.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
4. Authorization for this examiner's amendment was given in emails and phone conversation with Mr. Eric M. Shelton (Registration Number 57,630) on May 4th, 8th and 12th 2009, to obviate any potential 35 U.S.C. 112 issues, and to put the claims in condition for allowance.
5. The application has been amended as follows:

IN THE CLAIMS:

Please canceled claim 36 and amended claims 1, 16, 18, and 35 as follows:

Claim 1. (Currently Amended) A software processing method comprising:
a monitoring step, which monitors a status of use of a resource identified as used by a process for a processor;

a process identifying step, in which a compiler inserts a ~~program~~ command that identifies a process using a resource into an input program;

a determining step, in which the compiler inserts into the input program a ~~program~~ command that determines a status of use of the identified resource based upon contention information obtained in the monitoring step; and

a substituting step, in which the compiler inserts a ~~program~~ command that substitutes an equivalent process for the process identified by the ~~program~~ command inserted in the process identifying step, based upon results of the ~~program~~ command inserted into the input program in the determining step; wherein

the equivalent process is equivalent to the process identified by the ~~program~~ command inserted in the process identifying step, and makes reduced use of the resource.

Claim 16. (Currently Amended) A software processing method comprising:
a monitoring step for status of use, which monitors the status of use of a second processor, the second processor performing processing in response to a processing request by a first processor; ~~[[and]]~~

an identifying step, in which a compiler identifies a process containing command to use the second processor;

a mapping step, in which the compiler maps a first processor-use library formed process providing the processing request of the first processor to the second processor into a first memory bank and a second processor-use library formed process executed by the first processor into a second memory bank; and

an altering step for software processes, which alters software processing processes executed by the first processor or the second processor in response to contention information, the contention information being obtained in the monitoring step for status of use, wherein

the first processor can access a plurality of memory banks of a memory only for the first processor by using a same address, and the plurality of memory banks includes ~~[[a]] the first memory bank and [[a]] the second memory bank, the first memory bank including a program providing the processing request of the first processor to the second processor, and the second memory bank including a program executed by the first processor; and~~

the contention information is a signal indicating a switch from the first memory bank to the second memory bank.

Claim 18. (Currently Amended) A software processing method comprising:
a monitoring step, which monitors a status of use of a resource identified as used by a process for a processor;

a process identifying step, in which a compiler inserts a ~~program~~ command that identifies a process using a resource into an input program;

a storing step for storing contention information obtained in the monitoring step at a current time;

a determining step, in which the compiler inserts into the input program a ~~program~~ command that determines a status of use of the identified resource based upon contention information stored at a past time; and

a substituting step, in which the compiler inserts a ~~program~~ command that substitutes an equivalent process for the process identified by the ~~program~~ command inserted in the process identifying step, based upon results of the ~~program~~ command inserted into the input program in the determining step; wherein

the equivalent process is equivalent to the process identified by the ~~program~~ command inserted in the process identifying step, and makes reduced use of the resource.

Claim 35. (Currently Amended) A software processing system comprising:
a first processor;

a second processor for performing processing in response to a processing request by the first processor;

a use status monitoring device for monitoring a use status of the second processor;

a plurality of memory banks of a memory for the first processor that are accessible by only the first processor by using a same address, the plurality of memory banks including a first memory bank and a second memory bank, ~~the first memory bank including a program providing the processing request of the first processor to the second processor, and the second memory bank including a program executed by the first processor;~~

a compiler for identifying a process containing command to use the second processor and mapping a first processor-use library formed process providing the processing request of the first processor to the second processor into the first memory bank and a second processor-use library formed process executed by the first processor into the second memory bank; and

a bank switching device for altering software processing processes performed by the first processor or the second processor in response to contention information, the contention information being obtained by the use status monitoring device, wherein

the contention information is a signal indicating a switch from the first memory bank to the second memory bank.

Claim 36. (Canceled)

--END--

Allowable Subject Matter

6. Claims 1, 3, 5, 7, 9, 11, 13, 15, 16, 18-27 and 32-35 are allowed.
7. The following is an examiner's statement of reasons for allowance:
8. Applicants' arguments on independent claims 1 and 18 on page 13 of the Remarks that the prior arts of record failed to disclose and/or suggest, at least, the claimed limitation such as, "... the compiler inserts a command that substitutes an equivalent process for the process identified by the command inserted in the process identifying step ... wherein the equivalent process is equivalent to the process identified by the command inserted in the process identifying step, and makes reduced use of the resource". Similarly, in as such manners as recited in independent claims 16 and 35. Thus, all remaining dependent claims 3, 5, 7, 9, 11, 13, 15, 19-27, 32-34 are also being allowed.
9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh T. Bui whose telephone number is (571) 270-

1976. The examiner can normally be reached on 9:00 AM - 5:00PM / Monday-Thursday.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192